

**GOVERNMENT OF SASKATCHEWAN**

**DEPARTMENT OF JUSTICE**

**PROPOSED LEGISLATION**

**THE RESIDENTIAL TENANCIES ACT, 2006**

**December 2005**

## *THE RESIDENTIAL TENANCIES ACT, 2006*

### **1. The Scope of the Act**

The current Saskatchewan Residential Tenancies Act applies to “residential premises”, including “an apartment, flat, or tenement or other place that is or may be occupied by one or more individuals as a residence” and includes the land used as a site for a mobile home. Certain types of premises are expressly excluded from the operation of the Act, including:

- premises occupied for business purposes with living accommodation attached;
- hotels, motels or clubs;
- the Salvation Army, Canada West, the YMCA and YWCA;
- nursing homes; and
- room and board arrangements.

A unique feature of Saskatchewan’s legislation is that it restricts the operation of the Act to residential premises that are “in cities, town, villages and hamlets” and any prescribed premises (i.e., set out in regulations) that are within a five mile radius of a city, town, village or hamlet. Currently, the only prescribed premises are mobile home parks located within the five mile radius.

New legislation recently introduced in British Columbia and Alberta includes all residential tenancies with certain express exceptions:

- living accommodations attached to business premises;
- rooms in living quarters also occupied by the landlord;
- vacation or travel accommodations;
- educational institutional residences;
- care facilities (e.g., nursing homes);
- correctional institutions.

In addition, British Columbia's legislation adds the following exceptions not found in the Alberta legislation:

- non-profit housing corporations;
- emergency shelters and transitional housing;
- tenancies with a term of more than 20 years.

In both Alberta and British Columbia, mobile homes are dealt with in separate legislation.

## **2. Rural Tenancies**

There appears to be no valid policy reason for distinguishing between rental accommodations on the basis of location. The Government of Saskatchewan proposes to expand the scope of the present Act by removing the geographic restriction that limits its application to urban municipalities and hamlets. The proposed legislation will apply to all residential tenancies throughout the province, unless otherwise excluded by one of the listed exceptions. However, it is proposed that rural residential tenancy agreements be excluded where living accommodations are on a farm yard or farm land which is used by the tenant for agricultural business purposes. The exclusion would apply in the same fashion as the exception for living accommodations attached to business premises in urban areas.

## **3. Tourist and Vacation Properties**

All jurisdictions currently exclude tourist and vacation accommodations from the scope of residential tenancies legislation. These exclusions appropriately encompass hotels, motels, bed and breakfast accommodations, vacation cottages, campgrounds and trailer parks. However, there are circumstances where accommodations at hotels, motels and vacation properties are used on a long term basis. Where such properties are used as long term residential accommodations, there is no valid policy reason for treating them any differently than apartments or rental homes.

Accordingly, the Government proposes that the Act apply to the rental of such properties for a term of six months or more or, if rented on a periodic basis, where there is an intention to rent for a period of six months or longer.

#### **4. Transition Houses, YMCA, YWCA, Room and Board and Accommodations provided by Educational Institutions**

The operation of care homes and nursing homes is regulated by other legislation. Due to the special nature of these institutions, it is generally accepted that they should be excluded from the operation of residential tenancies legislation. However, the same is not necessarily true of other properties which are currently exempted from the operation of the Saskatchewan Act and Acts in other jurisdictions, such as room and board arrangements, transition houses, accommodations owned and/or operated by educational institutions and lodgings provided by organizations such as the YMCA and YWCA. The Government of Saskatchewan would like to invite feedback from you regarding the application of the Act to these types of tenancies.

#### **5. Rent Increases**

Saskatchewan legislation does not currently contain any prohibition against multiple or successive rent increases. Three months' notice of rental increase must be provided to tenants. Some jurisdictions utilize rent review procedures, some have prohibitions against successive rent increases while other jurisdictions have no restrictions in this regard. Alberta and Nova Scotia, like Saskatchewan, have no rent control provisions, but allow rent increases only on six months' notice and four months' notice, respectively. No more than one increase in rent per year is allowed in those jurisdictions. Legislation in British Columbia and Manitoba, like Saskatchewan, requires three months' notice of an increase; Ontario requires 90 days notice. However, British Columbia, Manitoba and Ontario all have rent control regimes.

The Government of Saskatchewan does not recommend the implementation of a formal rent review process, but does propose that the new legislation prohibit more than one rent increase within a twelve month period. We do not currently propose to amend the three month notice period for rent increases. We invite your comments on this proposal.

## **6. Mobile Homes**

The requirements for termination of tenancies in The Residential Tenancies Act do not currently distinguish between mobile homes and other forms of rental accommodation. Accordingly, landlords can terminate monthly tenancies for mobile homes on as little as one month's notice or increase rent on three months' notice. This provision works a hardship in the case of owner occupied mobile homes. Mobile homes are very expensive to move, and the loss of a rental site can be devastating to tenants who do not have the financial resources to move in such a short period of time. Often, short notice periods have led to a "forced sale" of a tenant's mobile home for much less than market value. The Government proposes to lengthen the notice period for termination of owner-occupied mobile home tenancies and to also increase the notice period for rent increases for such tenancies. We invite your feedback as to the appropriate length of the notice period.

## **7. Right to Evict**

The current Saskatchewan Act does not contain any express restrictions on the ability of a landlord to evict a tenant. However, the Rentalsman has generally relied on precedents established in court decisions to require that landlords must have a "valid" reason for eviction. The new legislation in British Columbia and Alberta sets out the circumstances under which a landlord can evict a tenant. They include non-payment of rent, tenant misconduct or the landlord's legitimate use of the rental property for close family members or sale of the property.

Saskatchewan proposes to follow the model established in the recent British Columbia and Alberta legislation by expressly setting out the circumstances under which tenancies can be terminated. The proposed legislation will include the following provisions which entitle a landlord to provide notice to end a tenancy:

- the landlord wishes to sell the property;
- the landlord wants to occupy the property;
- the landlord wants to allow a close family member to occupy the rental property;
- the property will no longer be used as residential premises;
- the landlord wants to perform renovations which will require the property to be vacant;
- the tenant has committed a serious breach of the Act or the tenancy agreement and has not remedied the breach within a reasonable time after receiving notice from the landlord;
- such other grounds as the Director considers just and equitable in the circumstances.

It should be noted that landlords will retain the ability to evict, without prior notice tenants who are in arrears of rent for a period of more than 15 days, have engaged in illegal activity, or have created a nuisance or disturbance to other persons in adjacent premises.

## **8. Absentee/Out-of-Province Landlords**

Tenants often express discontent with landlords who can not easily be reached. This becomes significant when the tenant wishes to provide notice to the landlord, or where urgent repairs to the rental premises are required. The proposed legislation will include a requirement that all landlords provide appropriate contact information for the tenant. Some of the potential remedies for tenants where landlords have not provided contact information could include allowing a tenant to conduct or arrange for necessary repairs on their own and deduct the cost of the repairs from future rent payments, and withholding rent until the contact information is provided.

## **9. Emergency Repairs**

The British Columbia legislation allows tenants to conduct emergency repairs where attempts to contact landlords have been unsuccessful. Such repairs must be urgent and be necessary for the health and safety of tenants or to preserve the residential property. The legislation specifically identifies leaking roofs, plumbing, heating and electrical systems in this regard.

We would like your opinion on whether or not such provisions would be desirable for Saskatchewan.

## **10. Notice of Entry by Landlord**

Currently, landlords are required to provide tenants with 24 hours notice to enter the rental premises, except in the case of emergency, or to show the premises to a prospective tenant where notice of termination has been given by the tenant. Concerns have been raised regarding situations where landlords have given notice of termination to a tenant for the purpose of selling the premises. Landlords and realtors do not always provide the required notice to tenants under these circumstances. The use of “lockboxes” on residential properties has contributed to the problem. It is perhaps questionable whether, in the absence of tenant consent, a landlord who has terminated a tenancy for the purpose of selling the property should be allowed to enter the premises at all during the tenancy for the purpose of showing the property, as this interference with the tenant's right to peaceful enjoyment of the premises has arisen solely out of the landlord's actions.

Please let us have your comments as to whether amendments to the current provisions are required.

## 11. Security Deposits

The Saskatchewan Act currently allows tenants to pay their security deposit in installments, (up to 50% at the beginning of the tenancy, and the balance within two months). No other jurisdiction allows for payment of the security deposit in this manner. This provision was enacted in 1997 to assist tenants in meeting the increased amount of the security deposit allowed under the amendments. (The maximum allowable security deposit was increased in 1997 from \$125 to one months' rent.)

We would like your opinion as to whether the Act should continue to allow for payment of the deposit in installments.

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We wish to thank-you for taking the time to consider these issues. We would appreciate receiving any comments you may have regarding the proposed amendments to the Act, or any other aspects of the legislation which you believe need to be addressed.

Please provide feedback by February 10, 2006 to the Department of Justice, Legislative Services Branch.

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